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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,175	07/15/2003	Vincent M. Stempien	18789-00112	8644
33772	7590	11/17/2004	EXAMINER	
MCDONALD HOPKINS CO., LPA 2100 BANK ONE CENTER 600 SUPERIOR AVENUE, E. CLEVELAND, OH 44114-2653			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,175

Applicant(s)

STEMPIEN ET AL.

Examiner

Edgardo San Martin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/20/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 2, 4, 6, 8, 10, 12 and 14 are objected to because of the following informalities:

- The parenthesis after the word "weld" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 6 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the word "optionally" in line 4. The Examiner considers that the word render the claim indefinite because it is not clear if the limitations is to be consider or not.

Claim 16 recites the limitation "the third tubular member" in lines 4 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5 – 7, 9, 11 and 15 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hardesty et al. (US 6,438,839).

With respect to claims 1, 15 and 19, Hardesty et al. teach a component and method of manufacturing a component for transporting fluids from a vehicle engine through a vehicle exhaust system, the vehicle exhaust system having a catalytic element, the component comprising a first metallic member, and a second metallic member attached without formation of weld spatter to the first member by an electromagnetic pulse weld, said weld positioned at a point upstream from the catalytic element, and the second member and the first member defining a flow path for fluids being transported therethrough (Figs. 1 and 2; Col.2, Line 51 – Col.5, Line 41).

With respect to claims 2, 5 – 7, 9, 11 and 16 – 20, Hardesty et al. teach the limitations described in the claims (Figs. 1 - 4; Col.2, Line 51 – Col.5, Line 41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 8, 10 and 12 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardesty et al. (US 6,438,839) in view of Imagawa et al. (US 5,293,744).

Hardesty et al. teach the limitations discussed in a previous rejection, but fail to disclose wherein the connector element, the first tubular member and the second tubular member define a curved or tortuous flow path for the fluid being transported therethrough, and further comprising at least one flange attached without formation of weld spatter by an electromagnetic pulse weld to at least one item selected from the group consisting of a terminal end of the first tubular member, a terminal end of the second tubular member and the connector element, the weld positioned at a point upstream from the catalytic element.

Nevertheless, Imagawa et al. teach a manifold muffler comprising a curved or tortuous flow path (Figs.1 – 3), and a flange (Figs. 1 and 2, Item 12) attached to a tubular member.

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Imagawa et al. configuration with the Hardesty et al. component and method of manufacturing the component to produce a manifold device comprising a catalytic element because the method of forming a device is not germane to the issue of patentability of the device itself. The Examiner considers that any person with ordinary skill in the art would be motivated to employ an electromagnetic pulse welding technique to form a manifold device; both the welding technique and the use of welding to form a manifold are well known in the art.

Conclusion

5. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

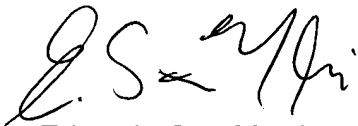
Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2837

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "E. San Martín".

Edgardo San Martín
Patent Examiner
Art Unit 2837
Class 181
November 15, 2004